

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION

BIG TIME VAPES, INC., *et al.*,

Plaintiffs,

v.

U.S. FOOD AND DRUG
ADMINISTRATION, *et al.*,¹

Defendants.

Civil Case No. 1:19-cv-531-LG-JCG

DEFENDANTS' MOTION TO DISMISS

Pursuant to Federal Rule of Civil Procedure 12(b)(6), Local Uniform Civil Rule 7, and the Court's October 29, 2019 Order (ECF No. 23), Defendants move to dismiss Plaintiffs' complaint (ECF No. 1), with prejudice, in its entirety, for failure to state a claim upon which relief can be granted, for the reasons stated in the combined memorandum of law that is being filed concurrently with this motion. Specifically, as explained in Defendants' combined memorandum, Plaintiffs have failed to state a claim under the nondelegation doctrine or the Declaratory Judgment Act.

¹ Admiral Brett P. Giroir, M.D., is now the Acting Commissioner of Food and Drugs, and is therefore automatically substituted as a defendant in his official capacity for Dr. Norman E. Sharpless, M.D., pursuant to Federal Rule of Civil Procedure 25(d).

November 6, 2019

Respectfully submitted,

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